



Testimony by:
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IN REPLY REFER TO:

STATE OF HAWAII
DEPARTMENT OF TRANSPORTATION
869 PUNCHBOWL STREET
HONOLULU, HAWAII 96813-5097

March 15, 2017
10:00 a.m.
State Capitol, Room 423

S.B. 658, S.D. 2
RELATING TO AN AIRPORT CORPORATION

House Committee on Transportation

The Department of Transportation (DOT) – Airports Division **supports** the intent of an Airport Corporation. However, the DOT prefers language that will provide the ability of the Hawai'i Airport Corporation to support the efficient execution of its capital improvement program and operations.

The DOT respectfully suggests language from H.B. 1443, H.D. 1 with additional amendments be considered, but not limited to, such as:

- Appropriate and allot airports funds, to include issuing revenue bonds and specialty facility revenue bonds that shall be separate and apart from all public moneys or funds of the State and shall not be subject to any provision of law requiring specific appropriations.
- Establishing a stand-alone Chief Procurement Officer (CPO) jurisdiction within chapter 103D that is separate and apart of the Executive Branch, with full authority to develop and implement policies and procedures will have a profound impact for the timely and efficient procurement of professional services; planning, engineering, and construction services.
- Further defining the transition process to an Airport Corporation by allowing the Airport Corporation and the State to enter into one or more memoranda of understanding to facilitate the corporation's governance over airports and provide an orderly transition from the department of transportation, within an agreed timeframe, of ownership, jurisdiction, and authority to control, operate, develop, and maintain airports and aeronautical facilities.

Enclosed is a proposed draft for your consideration which addresses employee retention, continued Federal oversight, and adherence to procurement standards.

The transition of management to the Hawai'i Airport Corporation will not result in any loss of employment or benefits for current public employees.

Thank you for the opportunity to provide testimony.

A BILL FOR AN ACT

RELATING TO AN AIRPORT CORPORATION.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:

SECTION 1. The legislature finds that the economic well-being of the State is substantially dependent on the efficient development, management, and operation of its airports and air transportation infrastructure. The legislature further finds that responsibility for Hawaii's airport planning, management, marketing, and capital development functions is currently distributed among a number of agencies, including the department of transportation's airports division, Hawaii tourism authority, department of budget and finance, department of human resources development, board of land and natural resources, department of health with respect to environmental concerns, and the Office of Hawaiian Affairs with respect to ceded land issues, among others. Furthermore, key decision-making is vested in the state legislature, which is only in regular session for part of each year which imposes a constraint to responsiveness and causes delay to key capital improvement program decisions. Distributed

responsibility and involvement by multiple agencies, sometimes with conflicting goals and priorities, results in delayed decision-making, inefficiency, and reduced effectiveness.

The legislature believes that coordinated planning and development of air transportation would be achieved more effectively by a single entity having overall consolidated jurisdiction for the State's airport infrastructure.

The legislature further finds that the establishment of an independent airport corporation would assist in the achievement of the following important statewide objectives:

- (1) Maximizing the contribution of the state airports system to Hawaii's economy;
- (2) Ensuring dedicated, expert airport leadership, management continuity, and year-round decision-making, consistent with industry best practices;
- (3) Improving administrative efficiency by streamlining administrative processes;
- (4) Accelerating the planning and delivery of the airports system's capital improvement program;
- (5) Increasing the financial flexibility and strength of the airports system;
- (6) Increasing economic opportunities for the State, in collaboration with the Hawaii tourism authority;

- (7) Increasing responsiveness to customer needs, commercial opportunities, and economic demands;
- (8) Providing full transparency and public accountability, and an appropriate forum to engage all interested parties; and
- (9) Maximizing job creation within the State.

The legislature further finds that the management and administration of scarce and increasingly valuable airport resources is most effectively served by the establishment of an independent airport corporation.

The purpose of this Act is to establish the Hawaii airport corporation.

SECTION 2. The Hawaii Revised Statutes is amended by adding a new chapter to be appropriately designated and to read as follows:

"CHAPTER

HAWAII AIRPORT CORPORATION

§ -1 **Definitions.** As used in this chapter:

"Aeronautics" shall have the same meaning as defined in section 261-1.

"Air navigation facility" shall have the same meaning as defined in section 261-1.

"Airport" means any area of land or water that is used, or intended for use, for the landing and taking-off of aircraft,

and any appurtenant areas that are used, or intended for use, for airport buildings or other airport facilities or rights-of-way, including approaches, together with all airport buildings and facilities located thereon.

"Airport corporation" or "corporation" means the Hawaii airport corporation.

"Airport funds" means all fees, charges, rents or other payments received by or accruing to the Airport corporation by reason of its ownership or operation of the State's airport system.

"Chief executive officer" means the chief executive officer of the Hawaii airport corporation.

§ -2 Airport corporation; establishment; board; members; chief executive officer. (a) There is established the Hawaii airport corporation, which shall be a body politic and corporate, constituting a public instrumentality for the performance of an essential public and governmental function as provided in this chapter. The corporation shall be established and shall operate as a subdivision of the State for the purpose of developing and implementing management structures, policies, and procedures based on airport industry best practices and expressly configured to support the efficient development, management, and operation of the State's airports and aeronautical facilities. The corporation shall be placed within

the department of transportation for administrative purposes only. The airport corporation shall not be subject to supervision or regulation by the department of transportation or any other department, office or board of the State except to the extent provided by this act. The airport corporation shall only be repealed by a vote of not less than a majority of the members of each house of the legislature.

(b) The powers of the airport corporation shall be vested in and exercised by a board of directors, which shall consist of five voting members, who shall be appointed as follows:

(1) Three members appointed by the governor pursuant to section 26-34;

(2) One member appointed by the speaker of the house of representatives; and

(3) One member appointed by the president of the senate.

All members shall be appointed for terms of four years; provided that the initial terms of the members appointed by the governor shall be staggered. Members shall be removed from office by the appointing authority only for inefficiency, neglect of duty, turpitude, or misconduct in office after giving the member a copy of the charges against the member and allowing the member an opportunity to be heard, in person or by counsel, upon not less than ten days notice.

Members shall have relevant business and management experience, including experience in one or more of the following disciplines: financial planning, budgeting, hospitality, tourism, commercial development, construction program management, marketing, law, or aviation.

All members shall continue in office until their respective successors have been appointed.

Except as provided in this chapter, no member appointed under this section shall be an officer or employee of the State or the counties.

(c) The airport corporation shall be headed by a single executive to be known as the chief executive officer of the Hawaii airport corporation, who shall:

- (1) Not be a member of the board;
- (2) Serve at the pleasure of the board; and
- (3) Receive such compensation as shall be fixed by the board.

(d) The chief executive officer:

- (1) Shall be selected based on criteria approved by the board, including experience in airport management at an executive level at a large- or medium-hub airport within the United States, management of significant scale capital programs, and domestic and international air service development;

- (2) Shall be appointed by the vote of not less a majority [~~than three members~~] of the board;
- (3) Shall be employed subject to a formal contract, the terms of which shall be approved by the board;
- (4) May be removed from office only by a vote of not less than three members of the board; provided that the basis for removal is consistent with the terms of the applicable employment contract;
- (5) May establish management organization structures;
- (6) May appoint such deputy executive officers as the chief executive officer deems appropriate. Each deputy executive officer shall exercise those powers that may be delegated by the chief executive officer;
- (7) Shall have such powers as described in this chapter and as may be delegated by the members of the board;
- (8) Shall attend all meetings of the board, keep a record of the proceedings, and shall maintain and be the custodian of all books, records, documents, and papers filed with the corporation, of the minute book of the corporation, and of its official seal;
- (9) Shall direct and supervise the corporation's administrative affairs and technical activities in accordance with the directives of the board;

- (10) Shall approve all accounts for salaries and allowable expenses of the corporation or of any employee or consultant thereof;
- (11) May hire staff and employees to fill positions that may be provided for in the airport corporation's annual budget; provided that the functions and duties of all positions shall be provided for in the bylaws of the airport corporation; and
- (12) Shall perform such other duties as may be directed by the board in carrying out the purpose of the corporation.

(e) The airport corporation shall establish bylaws providing for, upon the vacancy of the position of the chief executive officer, the automatic succession of a deputy executive officer on an interim basis until a permanent chief executive officer is appointed.

(f) The number of members of the board necessary to constitute a quorum to do business shall be a majority of the members.

§ -3 Powers; generally. Except as otherwise provided in this chapter, the airport corporation:

- (1) Shall exercise power and control over airports, air navigation facilities, buildings, and other facilities

belonging to, or controlled by, the airport corporation;

- (2) Shall exercise general supervision over aeronautics within the State and, in connection therewith, encourage, foster, and assist in the development of aeronautics in the State, and encourage the establishment of airports and air navigation facilities;
- (3) Shall provide for the landing, taking-off, and servicing of aircraft, and the loading and unloading of passengers and cargo;
- (4) Shall provide for the comfort, accommodation, and convenience of air travelers;
- (5) Shall establish performance targets and performance standards to achieve the highest levels of customer service;
- (6) Shall cooperate with and assist the federal government and other persons in the development of aeronautics;
- (7) Shall seek to coordinate the aeronautical activities of the State with those activities of the federal government;
- (8) Shall ensure that appropriate mission statements, business plans, minimum development standards, and strategic goals are established and that progress

towards their accomplishment is regularly assessed and reported;

- (9) Shall develop an organization and management structure to best accomplish the goals of the Hawaii airport system and the corporation;
- (10) Shall develop and implement policies and procedures for the timely and efficient procurement of professional services; planning, engineering, and construction services; and such other services and materiel as may be required for the development, management, and operation of the airport system, consistent with accepted standards of probity, transparency, and accountability for a public body. The corporation shall ~~[not be subject to chapter 103D and any other requirements of law for competitive bidding for project agreements, construction contracts, professional services, and lease and sublease agreements]~~ establish a stand-alone CPO Jurisdiction within chapter 103D, separate and apart from the Executive Branch, with full authority to develop and implement policies and procedures for the timely and efficient procurement of professional services; planning, engineering, and construction services; and such other services and materiel as may

be required for the development, management, and operation of the airport system, consistent with accepted standards of probity, transparency, and accountability for a public body;

- (11) Shall employ staff subject to public employment laws, and establish compensation programs to ensure that qualified staff can be remunerated competitively;
- (12) Shall appoint officers, agents, and employees through the chief executive officer, prescribe their duties and qualifications, and fix their salaries;
- (13) May use the facilities and services of any department, board, commission, or agency of the State or counties, subject to the provisions of memoranda of understanding approved by the board;
- (14) May sue and be sued;
- (15) Shall have a seal and may alter the seal at its pleasure;
- (16) May make and execute contracts and all other instruments necessary or convenient for the exercise of its powers and functions under this chapter;
- (17) Shall establish bylaws for its organization and internal management;
- (18) Shall adopt rules pursuant to chapter 91 to carry out the purpose of this chapter;

- (19) Shall adopt an annual budget for its operations, maintenance, and capital improvements;
- (20) May own, sell, lease, hold, clear, improve, and rehabilitate real, personal, or mixed property, and assign, exchange, transfer, convey, lease, sublease, or encumber any airport, or any project, improvement, or facility related thereto; provided that the corporation and corporation lands shall not be subject to chapter 171;
- (21) Shall develop, construct, reconstruct, rehabilitate, improve, alter, or repair, or provide for the development, construction, reconstruction, rehabilitation, improvement, alteration, or repair of, any airport, or any project, improvement, or facility related thereto;
- (22) May own, hold, assign, transfer, convey, exchange, lease, sublease, or encumber any airport or any project, improvement, or facility related thereto;
- (23) Shall arrange or initiate appropriate action for the planning, opening, grading, relocating, or closing of streets, roads, roadways, alleys, easements, or other places; the furnishing of facilities; the acquisition of property or property rights; and the furnishing of property, development rights, or services in

- connection with any airport or any project,
improvement, or facility related thereto;
- (24) May grant options or renew any lease entered into by
it in connection with any project, on terms and
conditions as it deems advisable;
- (25) May engage the services of consultants on a
contractual basis for rendering professional and
technical assistance and advice;
- (26) Shall procure insurance against any loss in connection
with its property and other assets and operations, in
such amounts and from such insurers as it deems
desirable, or provide for self-insurance;
- (27) May accept and receive gifts or grants in any form
from any person, public entity, or source; provided
that the grants and gifts shall be used for airport
corporation purposes;
- (28) May pledge or assign all or any part of the moneys,
fees, rents, charges, or other revenues and proceeds
derived by the airport corporation from the proceeds
of insurance or condemnation awards for the loss of
revenues or incurring of costs and expenses because of
any action taken by the airport corporation;
- (29) Shall fix, impose, prescribe, and collect rates,
rentals, fees, or charges for the lease, use, and

services of its airport facilities at least sufficient to pay the costs of operation, maintenance, and repair, if any, and the required payments of the principal of, and interest on, all bonds issued or assumed by the airport corporation and reserves therefor;

~~[(30) May engage in economic development programs and contract with the department of business, economic development, and tourism or nonprofit corporations in the furtherance of economic development;]~~

(30[4]) May take all actions necessary under emergencies such as hurricanes, tsunamis, and other natural disasters;

(31[2]) Shall plan, construct, operate, and maintain all airport facilities in the State;

(32[3]) May appropriate and allot airport funds and [7] issue revenue bonds and special facility revenue bonds in its name and secured by airport funds, pursuant to chapter 39, but not in excess of such principal amounts as are necessary for its purposes or specified in covenants with bondholders. Airport funds shall be separate and apart from all public moneys or funds of the State and shall not be subject to any provision of law requiring specific appropriations or allotments;

(33[4]) May invest and secure its moneys in accordance with chapters 36 and 38;

(34[5]) May take public and private property for use in furthering any of the purposes of the airport corporation; provided that all proceedings for condemnation shall be conducted in accordance with chapter 101;

(35[6]) May provide compensation, allowance, or other assistance to any person for relocation or displacement caused by the acquisition of land for airport purposes;

(36[7]) May hire or contract law enforcement personnel;

(37[8]) May license all airports and heliports within the State, pursuant to all federal and state rules and regulations, and the procedures of the airport corporation;

(38[9]) May approve all safety, security, and federal certification plans, procedures, and specifications related to the operation, management and development of all airports and heliports within the State; and

(39[40]) May do any and all things necessary to carry out its powers and duties pursuant to this chapter."

SECTION 3. Section 261-2, Hawaii Revised Statutes, is amended to read as follows:

"§261-2 **Development of aeronautics, general.** The department of transportation shall have general supervision over aeronautics within the State[-]; provided that on July 1, 2018, the general supervision shall be transferred to the Hawaii airport corporation. It shall encourage, foster, and assist in the development of aeronautics in the State and encourage the establishment of airports and air navigation facilities. It shall cooperate with and assist the federal government and other persons in the development of aeronautics and shall seek to coordinate the aeronautical activities of the State with those of the federal government. Municipalities may cooperate with the department in the development of aeronautics and aeronautics facilities in the State."

SECTION 4. Section 103D-203, Hawaii Revised Statutes, is amended to read as follows:

"§103D-203 Chief procurement officers. (a) The chief procurement officer for each of the following state entities shall be:

(1) The judiciary--the administrative director of the courts;

(2) The senate--the president of the senate;

(3) The house of representatives--the speaker of the house of representatives;

(4) The office of Hawaiian affairs--the chairperson of the board;

(5) The University of Hawaii--the president of the University of Hawaii; provided that, except as specified in section 304A-2672(2), for contracts for construction and professional services furnished by licensees under chapter 464, the administrator of the state procurement office of the department of accounting and general services shall serve as the chief procurement officer;

(6) The department of education, excluding the Hawaii public library system--the superintendent of education;

(7) The Hawaii health systems corporation--the chief executive officer of the Hawaii health systems corporation; and

(8) The Hawaii airport corporation - the chief executive officer of the corporation; and

[+8] (9) The remaining departments of the executive branch of the State and all governmental bodies administratively attached to them--the administrator of the state procurement office of the department of accounting and general services.

(b) The chief procurement officers for each of the several counties shall be:

(1) The executive branch--the respective finance directors of the several counties, except as provided in paragraphs (3), (4), and (5);

(2) The legislative branch--the respective chairpersons of the councils of the several counties;

(3) The Honolulu, Kauai, and Maui boards or departments of water supply--the managers and chief engineers of the respective boards or departments of water supply as designated by county charter;

(4) The Hawaii board of water supply--the manager of the board of water supply as designated by county charter; and

(5) The semi-autonomous public transit agency--the director of the agency as designated by county charter; provided that the chief procurement officers designated under paragraphs (1), (2), (3), (4), and (5) shall not exercise their powers or duties over contracting in a manner contrary to the respective county's charter, ordinances, or rules adopted in accordance with chapter 91.

(c) For purposes of applying this chapter to the judiciary, houses of the legislature, office of Hawaiian affairs, University of Hawaii, department of education, Hawaii Airport Corporation, remaining departments of the executive branch and all governmental bodies administratively attached to them, and the several counties, unless otherwise expressly provided, "State" shall mean "judiciary", "state senate", "state house of representatives", "office of Hawaiian affairs", "University of Hawaii", "department of education", "Hawaii airport

corporation", "executive branch", "county", "board of water supply" or "department of water supply", and "semi-autonomous public transit agency", respectively.

SECTION 5. The Hawaii airport corporation shall be a successor agency, and jurisdiction over aeronautics and airports, including airport functions under the department of transportation's airports division, shall be transferred to the Hawaii airport corporation on July 1, 2018.

To the extent that the Hawaii airport corporation is authorized in this Act to exercise powers and duties which are also granted to other departments, offices, or boards of the State, with respect to airports and aeronautical facilities, the Hawaii airport corporation shall exercise such powers and perform such duties in lieu of any other departments, offices, and boards.

SECTION 6[5]. The State shall facilitate the corporation's governance over airports and provide an orderly transition of ownership, jurisdiction, assets, liabilities, powers, funds, accounts, contracts, employees, and any other rights, benefits, or obligations, and authority to control, operate, develop, and maintain airports and aeronautical facilities from the department of transportation to the corporation prior to July 1, 2018.

The Hawaii airport corporation and the State shall enter into one or more memoranda of understanding to facilitate the corporation's governance over airports and provide an orderly transition from the department of transportation, within an agreed timeframe, of ownership, jurisdiction, and authority to control, operate, develop, and maintain airports and aeronautical facilities. Such memoranda of understanding shall include, but not be limited to:

- (1) The administrative support functions to be provided by the department of transportation and other State departments during the agreed transition period;
- (2) Those powers that will be exercised and duties that will be performed by each party during the agreed transition period;
- (3) Those assets, funds, accounts, contracts, and liabilities that will be transferred to the Hawaii airport corporation, and when such transfers will be made;
- (4) The transfer of employees who will be transferred to the Hawaii airport corporation, and when such transfers will be made;
- (5) The time when services will be provided under the memoranda of understanding; and

(6) Reimbursement to the State for the services provided under the memoranda of understanding; provided that the memoranda of understanding shall provide for the lease, assignment, or transfer of ownership, jurisdiction, and authority to control the airports, together with all assets, funds, accounts, contracts, and assumptions of liabilities and the manner and timing of any such lease, assignment or transfer; and provided further that the department of transportation shall receive no compensation in consideration of any such leases, assignments, or transfers.

SECTION 7~~6~~. The Hawaii airport corporation shall procure services and materiel pursuant to chapter 103D, Hawaii Revised Statutes, and shall not be exempt from chapter 103D, Hawaii Revised Statutes, until such time that the corporation develops and implements policies and procedures for the timely and efficient procurement of services and materiel pursuant to section -3(10), Hawaii Revised Statutes.

SECTION 8[7]. The office of the auditor shall periodically review and audit procurement practices conducted by the Hawaii airport corporation to ensure compliance with the policies and procedures established pursuant to section -3(10), Hawaii Revised Statutes.

SECTION 9[8]. The revisor of statutes shall substitute the phrase "Hawaii airport corporation" in chapter 261, Hawaii Revised Statutes, wherever the word "department" appears, except for the amendments made to section 261-2, Hawaii Revised Statutes, in section 3 of this Act.

SECTION 10[9]. It is the intent of this Act not to jeopardize the receipt of any federal aid nor to impair the obligation of the State or any agency thereof to the holders of any bond issued by the State or by any such agency, and to the extent, and only to the extent, necessary to effectuate this intent, the governor may modify the strict provisions of this Act, but shall promptly report any such modification with reasons therefor to the legislature at its next session thereafter for review by the legislature.

SECTION 11[0]. This Act does not affect rights and duties that matured, penalties that were incurred, and proceedings that were begun before its effective date.

SECTION 12[1]. If any provision of this Act, or the application thereof to any person or circumstance, is held invalid, the invalidity shall not affect the other provisions or applications of this Act that can be given effect without the invalid provision or application, and to this end the provisions of this Act are severable.

SECTION 13[2]. All rights, powers, functions, and duties of the department of transportation's airports division are transferred to the Hawaii airport corporation on July 1, 2018. The Hawaii airport corporation shall be a successor employer to the State, and shall recognize all bargaining units and collective bargaining agreements existing at the time of transfer to the corporation. The employees of the corporation shall be considered employees of the State as provided in this section. The corporation shall not be required to comply with the policies of the department of human resources development with regard to approval for the creation of new positions, the number of such positions, the decision to fill such positions, or the time for filling such positions.

All employees who occupy civil service positions and whose functions are transferred to the Hawaii airport corporation by this Act shall retain their civil service status, whether permanent or temporary. Employees shall be transferred without loss of salary, seniority (except as prescribed by applicable collective bargaining agreements), retention points, prior service credit, any vacation and sick leave credits previously earned, and other rights, benefits, and privileges, in accordance with state personnel laws and this Act; provided that the employees possess the minimum qualifications and public

employment requirements for the class or position to which transferred or appointed, as applicable.

Any employee who, prior to this Act, is exempt from civil service and is transferred as a consequence of this Act may retain the employee's exempt status, but shall not be appointed to a civil service position as a consequence of this Act. An exempt employee who is transferred by this Act shall not suffer any loss of prior service credit, vacation or sick leave credits previously earned, or other employee benefits or privileges as a consequence of this Act; provided that the employee possesses legal and public employment requirements for the position to which transferred or appointed, as applicable. The chief executive officer of the Hawaii airport corporation may prescribe the duties and qualifications of these employees and fix their salaries without regard to chapter 76, Hawaii Revised Statutes.

No employee covered by a collective bargaining unit as an employee of the department of transportation shall be laid off as a result of the creation of the Hawaii airport corporation. The officers and all other employees of the Hawaii airport corporation shall be state employees for the purposes of benefits and retirement. The corporation shall reimburse the appropriate state agencies for all costs incurred by such designation.

In addition to positions transferred to the corporation, the Hawaii airport corporation may create one or more new classifications of employees as determined by the board of directors of the corporation. Such classifications shall not be deemed comparable to other civil service classifications, and may be exempt from classified service. On and after July 1, 2018, the corporation may hire employees into new unclassified positions without regard to any collective bargaining agreement then in effect and may set the initial terms and conditions of employment for all employees in new unclassified positions.

SECTION 14~~[3]~~. On July 1, 2018, all appropriations, records, equipment, machines, files, supplies, contracts, books, papers, documents, maps, and other personal property heretofore made, used, acquired, or held by the department of transportation relating to the functions transferred to the Hawaii airport corporation shall be transferred with the functions to which they relate.

SECTION 15~~[4]~~. Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.

SECTION 16~~[5]~~. This Act shall take effect on July 1, 2017.

DAVID Y. IGE
GOVERNOR



WESLEY K. MACHIDA
DIRECTOR

LAUREL A. JOHNSTON
DEPUTY DIRECTOR

EMPLOYEES' RETIREMENT SYSTEM
HAWAII EMPLOYER-UNION HEALTH BENEFITS TRUST FUND
OFFICE OF THE PUBLIC DEFENDER

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ADMINISTRATIVE AND RESEARCH OFFICE
BUDGET, PROGRAM PLANNING AND
MANAGEMENT DIVISION
FINANCIAL ADMINISTRATION DIVISION
OFFICE OF FEDERAL AWARDS MANAGEMENT (OFAM)

WRITTEN ONLY
TESTIMONY BY WESLEY K. MACHIDA
DIRECTOR, DEPARTMENT OF BUDGET AND FINANCE
TO THE HOUSE COMMITTEE ON TRANSPORTATION
ON
SENATE BILL NO. 658, S.D. 2

March 15, 2017
10:00 a.m.
Room 423

RELATING TO AN AIRPORT CORPORATION

Senate Bill No. 658, S.D. 2, proposes to establish the Hawaii Airport Corporation (HAC) which shall be a body politic and corporate, constituting a public instrumentality and a special political subdivision of the State, created for the performance of an essential public and government function, as provided in the bill. The corporation shall be established and operate as a subdivision of the State. To accomplish this, the measure transfers the jurisdiction over aeronautics and airports, including airport functions under the Department of Transportation's (DOT) Airports Division, to the corporation on July 1, 2018. The bill also provides that the HAC shall be administratively attached to DOT.

The Department of Budget and Finance offers the following comments. We firmly believe that the present statutory structure provides an appropriate balance between development, management, operational flexibility and accountability. The department acknowledges that State government processes may not offer the flexibility that enterprise-like operations, such as airports, believe are necessary to support

industry best practices. However, we believe that our State government has proper internal control mechanisms in place to protect all assets under its control and it must maintain some level of accountability for funds that are collected and expended for a public purpose. Additionally, it is unclear the intent of the HAC general powers relating to Item 28 "Subject to legislative authorization or appropriation may allot airport funds..."

Thank you for your consideration of our comments.



**WRITTEN TESTIMONY OF
THE DEPARTMENT OF THE ATTORNEY GENERAL
TWENTY-NINTH LEGISLATURE, 2017**

ON THE FOLLOWING MEASURE:

S.B. NO. 658, S.D. 2, RELATING TO AN AIRPORT CORPORATION.

BEFORE THE:

HOUSE COMMITTEE ON TRANSPORTATION

DATE: Wednesday, March 15, 2017 **TIME:** 10:00 a.m.

LOCATION: State Capitol, Room 423

TESTIFIER(S): Douglas S. Chin, Attorney General, or
Michael Q.Y. Lau, Deputy Attorney General

Chair Aquino and Members of the Committee:

The Department of the Attorney General provides the following legal comments regarding this measure.

The purpose of the bill is to establish the Hawai'i airport corporation (the "corporation") to manage state airports. The corporation would be placed within the Department of Transportation for administrative purposes.

Subsection (b) on page 6, lines 3-5, of the new section -2 provides that "[e]xcept as provided in this chapter, no [board] member appointed under this section shall be an officer or employee of the State or the counties." However, there is no wording in the chapter that provides an exception. In other words, as currently written, the bill has no exception that permits a state or county employee to serve on the board of directors and the current wording is superfluous.

Paragraph (6) on page 7, lines 15-17, of the new section -2 authorizes the appointment of one deputy executive officer who shall be exempt from chapter 76. There is no provision regarding the salary limit for this officer.

Paragraph (17) on page 12, line 1, refers to "corporation lands." It is ambiguous whether this means lands owned by the corporation (the Department of Transportation does not own any land and no land will be transferred to the corporation) or lands controlled by the corporation. "Corporation lands" should be revised to "land controlled by the corporation" to be consistent with the wording of other provisions in the bill.

Section 8 on page 18, lines 4-9, substitutes the corporation for the terms “department” or “department of transportation” in chapter 261. Section 26-19, Hawaii Revised Statutes (HRS) provides that the Department of Transportation shall establish, maintain, and operate transportation facilities of the State including airports. Section 26-19 should be amended to provide that the corporation shall establish, maintain, and operate state airports.

Section 12 on page 20, lines 3-16, addresses the transfer of exempt employees from the Department of Transportation to the corporation. These employees have existing qualifications, duties, and salaries. The bill however, in lines 12-16, authorizes the Chief Executive Officer to prescribe the duties, qualifications, and salaries of these exempt employees. This sentence should be deleted if the intent is that the exempt employees who are transferred should remain in their same positions and maintain the same salaries.

Thank you for the opportunity to provide legal comments regarding this bill.



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David Y. Ige
Governor

George D. Szigeti
President and Chief Executive Officer

Statement of
George D. Szigeti
Chief Executive Officer
Hawai'i Tourism Authority
on
SB658 SD2 Relating to an Airport Corporation
House Committee on Transportation
Wednesday, March 15, 2017
10:00 a.m.
Conference Room 423

Chair Aquino, Vice Chair Quinlan and Members of the committee:

The Hawai'i Tourism Authority (HTA) offers the following **comments on** SB658 SD2, which would create the Hawaii Airport Corporation within the Department of Transportation to develop, manage, and operate the State's airports and aeronautical facilities.

Improving our airport infrastructure is critical for Hawai'i's tourism industry. Without commenting on the precise structure of the authority, HTA supports the concept of a separate entity tasked with maintaining and improving the airports and focusing on issues affecting airlines and the tourism industry. Such an entity would address the needs of our airport visitors, businesses and airlines in a responsive and timely manner. HTA supports the investment in the state, our infrastructure and Hawai'i's visitor industry.

Mahalo for the opportunity to offer these comments.

DAVID Y. IGE
GOVERNOR



SARAH ALLEN
ADMINISTRATOR
MARA SMITH
ASSISTANT ADMINISTRATOR

**STATE OF HAWAII
STATE PROCUREMENT OFFICE**

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TESTIMONY
OF
SARAH ALLEN, ADMINISTRATOR
STATE PROCUREMENT OFFICE

TO THE HOUSE COMMITTEE
ON
TRANSPORTATION

MARCH 15, 2017 10:00 A.M.

SENATE BILL 658, SENATE DRAFT 2
RELATING TO AN AIRPORT CORPORATION

Chair Aquino, Vice-Quinlan and members of the committee, thank you for the opportunity to submit testimony on Senate Bill 658, SD2. The State Procurement Office (SPO) supports the intent of this bill and offers the following recommendations:

SPO appreciates the recension of the exemption from HRS Chapter 103D. However, there is a lack of clarity as to whether HRS Chapter 103D applies in several areas, including the following:

Page 11, item 14:

“...May make and execute contracts and all other instruments necessary or convenient for the exercise of its powers and functions under this chapter...”

Page 13 item 22:

“...May engage the services of consultants on a contractual basis for rendering professional and technical assistance...”

Public procurement’s primary objective is to give everyone equal opportunity to compete for Government contracts; to prevent favoritism, collusion or fraud in awarding of contracts.

The following section is also concerning with regard to procurement policy and procedure.

Page 13, item 23

“..May accept and receive gifts or grants in any form from any person, public entity, or source; provided that the grants and gifts shall be used for airport corporation purposes...”

SPO strongly urges that the Hawaii Airport Corporation HAC be required to develop a strict policy on operational conflicts of interest, and procurement integrity issues to mitigate perceptions of gifts or grants unduly influencing procurement decisions.

The HAC must take into account that procurement is a complex function guided by numerous policies are critical to ensuring procurement staff, and all stakeholder's follow the proper procedures, and rules so all will have a clear and consistent understanding of the required regulations. The HAC should develop a comprehensive procedure manual that clearly defines authority, management oversight, responsibility, and guidelines for the public and procurement staff when carrying out their responsibilities.

The SPO recommends the Hawaii Airport Corporation (HAC) become its own CPO Jurisdiction. This will allow the HAC to develop more efficient internal processes and give it authority over its own procurements, but still maintain the higher level policies of the State Procurement Code and Rules.

In order to achieve the above recommendations, the SPO suggests the following verbiage to this bill:

The Hawaii airport corporation shall have its own CPO Jurisdiction within HRS103D, and the Chief executive officer shall serve as chief procurement officer for the Hawaii airport corporation with full authority to develop and implement procedures for the timely and efficient procurement of professional services; planning, engineering, and construction services; and such other services and materiel as may be required for the development, management, and operation of the airport system, consistent with accepted standards of probity, transparency, and accountability for a public body;

Add a new Section:

SECTION X. Section 103D-203, Hawaii Revised Statutes, is amended to read as follows:

Chief procurement officers. (a) The chief procurement officer for each of the following state entities shall be:

- (1) The judiciary--the administrative director of the courts;
- (2) The senate--the president of the senate;
- (3) The house of representatives--the speaker of the house of representatives;
- (4) The office of Hawaiian affairs--the chairperson of the board;
- (5) The University of Hawaii--the president of the University of Hawaii; provided that, except as specified in section 304A-2672(2), for contracts for construction and professional services

furnished by licensees under chapter 464, the administrator of the state procurement office of the department of accounting and general services shall serve as the chief procurement officer;

(6) The department of education, excluding the Hawaii public library system--the superintendent of education;

(7) The Hawaii health systems corporation--the chief executive officer of the Hawaii health systems corporation; ~~and~~

(8) The Hawaii airport corporation – the chief executive officer of the corporation.

(8) The remaining departments of the executive branch of the State and all governmental bodies administratively attached to them--the administrator of the state procurement office of the department of accounting and general services.

(b) The chief procurement officers for each of the several counties shall be:

(1) The executive branch--the respective finance directors of the several counties, except as provided in paragraphs (3), (4), and (5);

(2) The legislative branch--the respective chairpersons of the councils of the several counties;

(3) The Honolulu, Kauai, and Maui boards or departments of water supply--the managers and chief engineers of the respective boards or departments of water supply as designated by county charter;

(4) The Hawaii board of water supply--the manager of the board of water supply as designated by county charter; and

(5) The semi-autonomous public transit agency--the director of the agency as designated by county charter;

provided that the chief procurement officers designated under paragraphs (1), (2), (3), (4), and (5) shall not exercise their powers or duties over contracting in a manner contrary to the respective county's charter, ordinances, or rules adopted in accordance with chapter 91.

Thank you.



HAWAII GOVERNMENT EMPLOYEES ASSOCIATION

AFSCME Local 152, AFL-CIO

RANDY PERREIRA, Executive Director • Tel: 808.543.0011 • Fax: 808.528.0922

The Twenty-Ninth Legislature, State of Hawaii
House of Representatives
Committee on Transportation

Testimony by
Hawaii Government Employees Association

March 15, 2017

S.B. 658, S.D. 2 - RELATING TO
AN AIRPORT CORPORATION

The Hawaii Government Employees Association, AFSCME Local 152, AFL-CIO opposes the purpose and intent of S.B. 658, S.D. 2, which authorizes the establishment of a new state entity, "an independent airport corporation," to take over from the Department of Transportation Airports Division the responsibility for Hawaii's airport planning, management, marketing and capital development.

The bill advances the notion that such corporation addresses delayed decision-making and inefficiency resulting from multiple agencies involved in the planning, development and operation of Hawaii's airport infrastructure. We assert that multiple agencies, each with their own area of responsibility, are rightly involved to collectively protect the public interest. The public benefits from the involvement of the Department of Health with respect to addressing environmental concerns, the Board of Land and Natural Resources with respect to protecting public lands and the Department of Human Resources Development with respect to enforcing the civil service law to render impartial service to the public.

Furthermore, we respectfully remind the Committee of the negative impacts of a similarly independent public corporation, the Hawaii Health Systems Corporation, which was established in 1996, with the intent of freeing the community hospital system from bureaucratic oversight and red tape. The effects of the inefficiencies, mismanagement, and lack of accountability of that public corporation are continuing to disrupt families and communities in the Maui region and statewide.

The public interest at our airports would be better served by efforts to increase efficiency through improved collaboration among state agencies and involving the experience and expertise of their employees.

We respectfully request that S.B. 658, S.D. 2 be deferred.

Respectfully submitted,

Randy Perreira
Executive Director

SanHi Government Strategies

Gary M. Slovin
Mihoko E. Ito
R. Brian Tsujimura

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DATE: March 14, 2017

TO: Representative Henry Aquino
Chair, Committee on Transportation
Submitted Via Capitol Website

RE: **SB 658, S.D.2 Relating to an Airport Corporation**
Hearing Date: Wednesday, March 15, 2017 at 10:00 a.m.
Conference Room: 423

Dear Chair Aquino and Members of the Committee on Transportation:

We submit this testimony on behalf of Enterprise Holdings, which includes Enterprise Rent-A-Car, Alamo Rent-A-Car, National Car Rental, Enterprise CarShare and Enterprise RideShare (Van Pool).

Enterprise **supports** S.B. 658, S.D.2, which would authorize the establishment of the Hawaii airport corporation within the Department of Transportation. Enterprise believes it is important to establish an independent airport authority to oversee the transformation of our state airports into world class facilities. A single entity with consolidated jurisdiction over the development, management and operation of Hawaii's airports would streamline processes and improve efficiencies. This would greatly benefit travelers to our islands, as well as all businesses that serve the Hawaii hospitality and tourism market.

For these reasons, we support S.B. 658, S.D.2 and respectfully request that the Committee pass this measure. Thank you for the opportunity to submit this testimony.

Gary M. Slovin
Mihoko E. Ito
R. Brian Tsujimura
C. Mike Kido
Tiffany N. Yajima
Matthew W. Tsujimura

BIA-HAWAII

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Testimony to the House Committee on Transportation Wednesday, March 15, 2017 10:00 a.m. Conference Room 423

RE: S.B. 658 SD2, RELATING TO RELATING TO AN AIRPORT CORPORATION

Chair Aquino and Vice Chair Quinlan, and members of the committees:

My name is Gladys Quinto Marrone, CEO of the Building Industry Association of Hawaii (BIA-Hawaii). Chartered in 1955, the Building Industry Association of Hawaii is a professional trade organization affiliated with the National Association of Home Builders, representing the building industry and its associates. BIA-Hawaii takes a leadership role in unifying and promoting the interests of the industry to enhance the quality of life for the people of Hawaii.

BIA-HAWAII is in support of S.B. 658 SD2 which would authorize the establishment of the Hawaii Airport Corporation within the department of transportation for administrative purposes on July 1, 2018. The bill sets out appointment of members to the board of directors and powers and duties of the Hawaii Airport Corporation, and transfers the aeronautics functions of DOT to the Hawaii airport authority.

We understand that the Airports Division recently completed a study that recommended restructuring toward a more independent airport authority, similar to port authorities on the mainland.

An Airport Corporation would:

- Make improvements quickly and efficiently;
- Increase transparency and accountability;
- Create a more competitive tourism industry;
- Deliver economic benefits across all sectors;
- Make flying a better experience;
- Foster a better working environment;
- Provide year-round oversight and leadership with a five-member board and CEO;
- Transfer all employees of the state to the corporation without loss of salary, seniority and benefits.

One of the compelling arguments to create an Airport Corporation is that currently, Airports does not use any taxpayer funds. All funds used in the airport operations are derived from user fees and assessments within the Airport properties. While we support the proposal for the Hawaii Airport Corporation we also would encourage imposing policies and procedures that would provide sufficient oversight on the collection and expenditure of the funds raised on Airport properties which are state owned lands.

We appreciate the opportunity to provide our input on this important legislation.



March 13, 2017

Testimony in Support of SB658 SD2

Members of the Hawaii State Legislature:

The Kohala Coast Resort Association (KCRA) is in full support of SB658 SD2 establishing the Hawaii Airport Corporation. KCRA has been a partner on numerous improvement projects at the Ellison Onizuka Kona International Airport at Keahole, and was a tenant for more than 15 years. Our Administrative Director serves on the Airport Operations Committee. We believe that establishing a Hawaii Airport Corporation will allow much needed airport improvements, including Phase 1 of the Terminal Modernization Plan and the building of a new Federal Inspection Station to happen more quickly and efficiently.

KCRA is a collection of master-planned resorts and hotels situated north of the airport which represents more than 3,500 hotel accommodations and an equal number of resort residential units. This is approximately 35 percent of the accommodations available on the Island of Hawai'i. KCRA member properties annually pay more than \$20 million in TAT and \$20 million in GET.

We encourage your support of this measure.

Sincerely,

A handwritten signature in black ink that reads "Stephanie P. Donoho". The signature is written in a cursive, flowing style.

Stephanie Donoho
Administrative Director

Patrick Fitzgerald, Hualalai Resort
Kelley Cosgrove, Fairmont Orchid, Hawai'i
David Givens, Hilton Waikoloa Village
Steve Yannarell, Waikoloa Beach Marriott Resort & Spa

Scott Head, Waikoloa Land Company
Robert Whitfield, Four Seasons Resort Hualalai
Rodney Ito, Mauna Lani Bay Hotel & Bungalows
Craig Anderson, Mauna Kea Beach Hotel and Hapuna
Prince Hotel



Maui Hotel & Lodging

ASSOCIATION

Testimony of

Lisa H. Paulson

Executive Director

Maui Hotel & Lodging Association

on

SB 658 SD2

Relating To An Airport Corporation

COMMITTEE ON TRANSPORTATION

Wednesday, March 15, 2017, 10:00 am

Conference Room 423

Dear Chair Aquino, Vice Chair Quinlan and Members of the Committee,

The Maui Hotel & Lodging Association (MHLA) is the legislative arm of the visitor industry. Our membership includes over 175 property and allied business members in Maui County – all of whom have an interest in the visitor industry. Collectively, MHLA's membership employs over 25,000 residents and represents over 19,000 rooms. The visitor industry is the economic driver for Maui County. We are the largest employer of residents on the Island - directly employing approximately 40% of all residents (indirectly, the percentage increases to 75%).

MHLA is **in support** of SB 658 SD2, which authorizes the establishment of the Hawaii airport corporation within the department of transportation for administrative purposes on July 1, 2018. Sets out appointment of members to the board of directors and powers and duties of the Hawaii airport corporation. Transfers the aeronautics functions of DOT to the Hawaii airport authority.

MHLA believes that this measure could facilitate the completion of long-needed airport improvement and create a platform for integrated planning that will greatly benefit the traveling public. These much-needed improvements will be paid for by the airlines and concessionaires that use the airports, together with the existing passenger facility charges already included with every airfare.

The first and last impressions of our visitors occur at our airports. The hospitality industry's continued progress is very dependent on the quality of our airports. It is vital that we improve upon the service, infrastructure, and overall development of such a vital entity. We support the airport corporation as a single entity to overlook our airport's planning, management, marketing and development.

We respectfully request you consider passing SB 658 SD2. Thank you for the opportunity to testify.

TRNtestimony

From: mailinglist@capitol.hawaii.gov
Sent: Tuesday, March 14, 2017 11:54 AM
To: TRNtestimony
Cc: jeanclaude.wietzel@fourseasons.com
Subject: Submitted testimony for SB658 on Mar 15, 2017 10:00AM
Attachments: SB 658 Testimony 2-24-17.pdf

SB658

Submitted on: 3/14/2017

Testimony for TRN on Mar 15, 2017 10:00AM in Conference Room 423

Submitted By	Organization	Testifier Position	Present at Hearing
Jean Claude Wietzel	MHLA	Support	No

Comments: I strongly support and with all due respect, request your approval in passing SB 658 SD1. Mahalo!

Please note that testimony submitted less than 24 hours prior to the hearing, improperly identified, or directed to the incorrect office, may not be posted online or distributed to the committee prior to the convening of the public hearing.

Do not reply to this email. This inbox is not monitored. For assistance please email webmaster@capitol.hawaii.gov



**Testimony to the House Committee on Transportation
Wednesday, March 15, 2017 at 10:00 A.M.
Conference Room 423, State Capitol**

RE: SENATE BILL 658 SD2 RELATING TO AN AIRPORT CORPORATION

Chair Aquino, Vice Chair Quinlan, and Members of the Committee:

The Chamber of Commerce Hawaii ("The Chamber") **supports** SB 658 SD2, which authorizes the establishment of the Hawaii airport corporation within the department of transportation for administrative purposes on July 1, 2018; sets out appointment of members to the board of directors and powers and duties of the Hawaii airport corporation; transfers the aeronautics functions of DOT to the Hawaii airport authority.

The Chamber is Hawaii's leading statewide business advocacy organization, representing about 1,600+ businesses. Approximately 80% of our members are small businesses with less than 20 employees. As the "Voice of Business" in Hawaii, the organization works on behalf of members and the entire business community to improve the state's economic climate and to foster positive action on issues of common concern.

We understand that the Airports Division recently completed a study that recommended restructuring toward a more independent airport authority, similar to port authorities on the mainland. An Airport Corporation would allow for:

- Make improvements quickly and efficiently
- Increase transparency and accountability
- Create a more competitive tourism industry
- Deliver economic benefits across all sectors
- Make flying a better experience
- Foster a better working environment
- Provide year-round oversight and leadership with a five-member board and CEO
- Transfer all employees of the state to the corporation without loss of salary, seniority and benefits

While we support the proposal for the Hawaii Airport Corporation we also would support any policies and procedures that would provide sufficient oversight on the collection and expenditure of the funds raised at Hawaii's airports.

Thank you for the opportunity to testify.

Douglas Meller
2615 Aaliamanu Place
Honolulu, Hawaii 96813
douglasmeller@gmail.com

Testimony Opposing SB 658, SD 2, Relating to an Airport Corporation

Submitted to House Committee on Transportation
10 am, March 15, 2017 Hearing in Conference Room 423

SB 658, SD 2 cannot accomplish what is desired by the agencies and organizations which support it. Instead of enacting ineffective legislation, I suggest that you replace the current contents of this bill with a mandate and appropriation for the Legislative Auditor to:

- study “best-practices” for airport funding, operation, and management and
- recommend appropriate Constitutional and statutory amendments to adapt “best practices” for Hawaii’s situation.

HDOT’s February 1, 2017 testimony on SB 658 alleged that “State-imposed constraints to Airport operating budgets and staffing have resulted in progressive deterioration of the quality of terminal facilities . . . below the standard of other airports serving leading global destinations.” I agree. But SB 658, SD 2 will not help. Without a Constitutional amendment, the Legislature, Governor, and Department of Budget and Finance will continue to impose “constraints” on the proposed Airport Corporation’s expenditures and staffing.

HDOT’s February 1, 2017 testimony on SB 658 also alleged that “Distributed responsibility and involvement by multiple agencies, sometimes with conflicting goals and priorities, results in delay to decision-making, inefficiency and reduced effectiveness. “ I agree. But SB 658, SD 2 will not help. Merely establishing an Airport Corporation will not reduce conflicts with agencies which require space in airports and which need additional funding and staffing to reduce delays for airport passengers. Because the DOA, DLNR, and DOH need to use airport facilities, and because these agencies need to assess fees on airport users to adequately fund state programs to control introduction of noxious non-native plants, animals, and diseases, the proposed Airport Corporation should be assigned clear statutory responsibility to cooperate with and to assist these agencies. Moreover, because several underfunded federal agencies need to screen embarking or disembarking passengers, the proposed Airport Corporation also needs clear statutory authorization to use Airport Corporation funds to “purchase” sufficient federal employees to reduce delays for airport passengers.

Before establishing a new semi-autonomous Airport Corporation, I also suggest that the Legislature ask the Legislative Auditor to reconsider potentially problematic “airport financial considerations”. For example:

- should the state subsidize Hawaii airports? Perhaps state law could and should deposit revenues from Duty Free concessions located outside of airports into the general fund rather than into the airport fund.
- should the Airport Corporation be authorized to favor or subsidize certain enterprises with either non-bid leases or below-market leases of public property? It seems reasonable for the statute creating an Airport Corporation to incorporate a transparent process and reasonable criteria for leases of airport property.
- should OHA be compensated for revenues arising from private lease of ceded lands within airports? State law should unambiguously resolve whether OHA is entitled to compensation; and, if compensation is owed, clarify whether compensation should be derived from airport revenues or from the general fund.

Statement of Richard Hill

Representative Henry J.C. Aquino, Chairman
2017

Submitted March 13,

Representative Sean Quinlan, Vice Chairman
Hawaii State Legislature - **House Committee on Transportation**

Written Statement for Hearing of Monday, March 15, 2017 10:00 a.m.

Support for S.B 658, S.D. 2 Relating to the Formation of an Airport Corporation

As a Hawaii Resident for most of the past 16 years I have a both a personal and professional interest in the success of HDOT's effort to reorganize the Hawaii Airport System. As a former Chairman of the Board for the Reno Tahoe Airport Authority, and having served in key career management and policy making roles during the formative development, growth and maturation of the agency over 20 years I have been asked by several stakeholders to contribute my opinions and recommendations for the committee to consider. Thank you for the opportunity Mr. Chairman.

Sharing the Experience - Airport Authority Formation

What started out as United Airlines Airport in the 1950's evolved to become Reno Municipal Airport managed by the City of Reno. Severe mismanagement, missed opportunities, conflicting priorities and unmet constituent needs led to the need for change. A well-crafted enabling statute in 1977 was a visionary effort marshaled forward by a strong Nevada State Senate Leader. When the creation statute was enacted it gave the agency the broadest of powers as a full subdivision of the state, not subordinate to any other agency. Improvements were subsequently made to the legislation but always at the request of the Authority, not the legislature. Certainly there was trepidation that the agency needed to ramp up gradually or it could fail. These fears were never realized as the agency developed its own civil service plan and followed the principles laid out in the state purchasing act. Upon the liberation from state control, expert management was unleashed and stakeholder confidence soared. Its passage sparked investment and spawned immediate and rapid development through the Authority's exclusive ownership of airport land, facilities and full governing autonomy over the operation and administration Reno Tahoe International Airport and Reno Stead Airport.

Performance & Results

The agency hit the ground running. From its inception, the Airport Authority was the recipient of countless financial excellence, productivity enhancement and efficiency awards. Frustration among all stakeholders gave way to definitive plans to energize idle assets. Bonds were issued for a terminal expansion. Innovative ideas were easily implemented and performed with absolutely no state, county or special municipal permissions, multiple agency approvals, revenue diversions or state-control-for-the-sake-of-control. A new terminal building was funded and built. Airlines no longer balked at operating at RTIA, but were soon free to penetrate its once restrictive air service market and to obtain non-exclusive gate access to benefit from the synergies of shared facilities,

ending the era of gate monopolization. The Authority worked closely with the FAA to be proactive in its interpretations of the FAR's to the delight of its General Aviation community. A new anchor carrier started service and identified an enduring market, launching into a diversified competitive redefinition leading to some of the lowest sustainable fares in the nation, and ultimately rising to a dominant market position they hold to this day. A parking structure transformed the passenger convenience standard to a new level by developing contiguous facilities with the shortest aggregate walk-to-gate distance in the nation for resident travelers. Non-aeronautical revenues increased dramatically and costs dropped precipitously as the airport rose to over 6.6 million passengers annually by the late 90's and was ranked as the fastest growing airport in the nation rising from the rank of the 60th busiest airport in the nation to 43rd. Landing fees, at the growing medium hub airport went from the highest in the nation to the lowest in three short years. Many industry leaders saw then, what we all see today; ***The enabling statute of the Reno Tahoe Airport Authority is one of the most successful airport governing models in the nation.***

Anyone who has visited Reno Tahoe International can easily see that it continues on its path of excellence today as a thematic masterpiece, efficiently run on a firm financial footing with widespread community acceptance and a full range of passenger conveniences. ***However, without the courage of the legislature to act to nearly four decades ago to implement the Airport Authority this vision of excellence would simply never have been realized.***

By the State of Nevada relinquishing direct control the Airport System it flourished, and the State Legislature can take the credit for the progress achieved, acting boldly to divest power when it seemed counterintuitive at the crossroads it faced at that pioneering time. Now Hawaii is in that same position.

The Hawaii Constituency – The Flying Public

The constituency requiring the most focused attention for their needs, and therefore representation for their interests are the **flying public**. Some argue that this representation is provided by the airlines. In practice, the reality is that the Airport Authority serves as the de-facto advocate for efficient and effective facilities on the ground to serve the passenger. The signatory airlines exercise their interests through their majority-in-interest clause of the residual airport agreement for these facilities. HDOT is disadvantaged by operating within the state run model for a variety of reasons. This frustrates the airlines whose properties executives expect to negotiate with an empowered decision maker. The airport leader's job is to frame the operating and development issues for investments that are in tune with their need to restrain costs, skillfully forecast requirements, identify and develop non-aeronautical funding sources and reliably deliver facilities as agreed according to a dynamically driven, coherent and predictable master plan. In like fashion, the same frustration is shared by concessionaires who serve your passengers and other first and second tier stakeholders who experience delays in the decision process.

The Urgency

As I have observed the bills being discussed in the halls of the legislature and my attendance at the Aviation Caucus, Aviation Day, and in conversation with individual legislators there is a palpable sense that the top-down power and decision structure is failing. Failing to keep up with the needs of the Airport System comprised of 15 airports and the many interests and constituencies requiring action. In my discussions with members of the airline, tourism, concessionaire, construction and general aviation communities and those within FAA circles have expressed an urgency to act now, not later. They want to streamline state processes and expedite decision-making that enables **responsible and responsive action** to seize immediate opportunities to deliver more efficient and effective airport facilities, and to administer them in a fair and equitable manner. These groups encourage removal of state imposed rules that are inflexible-in-practice, and procedures with constraints which impede the expected progress in building the proper capacity for the economic pipeline that the Airport System should be more efficiently delivering for the Aloha State. That takes expertise, focus, time and support. With the vast untapped aviation opportunities and strategic placement in the geographic center of the Pacific Rim, that time is now.

Opportunity Cost

Cargo buildings in the center of the Pacific Rim should not stand idle and unoccupied. Premium developable land and hangar facilities should not sit unattended, unfunded, un-partnered, un-negotiated and in economic limbo. Planes should not be parked on taxiways, left wanting for construction of ramp space. Progress on master plans should not be halted to await direction from the legislature to only find that action is deferred simply because it is too complex to unwind the byzantine rules. Simply put, to kick the airport can down the road from legislative session to legislative session is not progress. It needs to be championed in the legislature, ownership taken and closure brought to the bill before you. Your action now will send a message that there is a unified mandate to remedy these continued missed opportunities that hurt the entire airport system, and the citizens of Hawaii. The net effect of capitalizing on these missed opportunities is generate a windfall that benefits the a newly expanded Airport System and keeps it independent. An Airport Authority is one agency that will never be a burden, but rather it will produce direct and indirect dividends to the people of the Aloha State for years to come.

Appropriate Statutory Roles

Running a metropolitan international airport is analogous to running a complex city. Taken further, an airport system comprised of multiple airports serving multiple passenger catchment areas requires a staff structure with the appropriate divisions of labor which arm it with the credibility to responsibly carry out the fiscal administration and operations with full accountability to the public. It is serious a specialized business. The broad responsibilities of a State's Department of Transportation are not typically tooled for, nor should it be expected to provide the specific competencies and scale required to quickly and efficiently bring rapid change of focus to the airport as it does not have the specialized training, resources, procedures or

communications configured to the complexities of this specialty field. An Airport Authority structure provides a systematic forum that serves as the magnet for facilitating understanding and improved 'clarity of purpose' by and between their interdependent customers, reinforcing and refining its mission through its regular agendas.

Corporation vs. Authority

Airport Authority is the more prevalent industry term for an entity that governs an airport system such as the Hawaii Airport System. The DOT Director has testified that there is no difference in the intent or definitions between Authority and Corporation. With that said the difference could be just semantic on intent. However, Airport Authority governing structures most typically stand alone as a subdivision of the state with no influence being exerted by the state beyond its creation. A "Corporation" connotes that it is formed for a specific purpose and that it may be intended to extinguish after that purpose is achieved. It usually is subordinate to a parent agency. S.B.658 S.D.2 has eliminated the repeal clause and therefore it would seem that the entity is intended to endure beyond a single purpose. However, it also appears that there are linkages between HDOT and the Corporation that interweave the entities to the procurement statutes and civil service statutes under HDOT. It could be inferred from this that the "Corporation" could be interpreted as being subordinate to HDOT. It would appear that the title of "Airport Authority" would be a better title for the agency's longer term strategic purposes to eliminate any misinterpretation of its intent, scope and durability.

Having reviewed Bills H.B.1443 and S.B.658 in detail through the current S.B.658 SD2 in TRN, along with the testimonies given, I respectfully provide my opinion in the form of recommendations and the narrative rationale below:

Review of S.B.658 S.D.1 in its current form

Passage of the bill in its current form would be preferable to having no action taken in the legislature in the 2017 Legislative Session. The concern I see is that there could be interpretations that contain lingering potential mechanisms and influences from forces outside the agency that could dilute the agency's independence and invite politics to play a role in future transactions, appointments, or decisions. This should be protected against to ensure the long term health of the agency. But to avoid making the 'perfect' the enemy of the 'good', some actions should take place in this session to start the transition immediately.

The Transition

HDOT's immediate concern appears to be the need for a mechanism to allow HDOT latitude to move forward with backlogged projects and propel languishing programs. This is a good short-term goal. Once the immediate goals have been achieved there should be a specific period of time when the new Airport Authority agency should become its own subdivision of the State, and be removed from the operating "administrative purposes" under HDOT.

Procurement - RTAA was given broad exemptions on regulatory purchasing processes and required to follow some basic guidelines defined in the State Purchasing Act. This practice

has resulted in using these exemptions to expend hundreds of millions of dollars of capital projects and operating contracts which deliver a high standard of value for the traveling public and have successfully maintained the public trust without scandal or waste. To enact this provision in S.B. 658 it would be prudent to give the new board the first task of passing the act within one year, at which time the provisions are met, then any dependence on interim state purchasing regulations would automatically sunset by this statute.

Civil Service Plan - To address the same issues faced by in the RTIA enabling statute, the Nevada Legislature enabled the Authority to adopt its own Civil Service Plan to be administered by its Board of Trustees. It has 14 provisions, required by the statute, which define the administration of both exempt and non-exempt employees which the Board did in fact adopt and in fact improved upon over the years, the outcome of which finds efficient, satisfied and well compensated employees. To enact this provision in S.B. 658 it would be prudent to give the new board the second task of passing the act within two years, at which time the provisions are met, then any dependence on interim state labor regulations would automatically sunset by this statute.

Board Member Qualifications - The RTAA places an emphasis on having the county/municipalities appoint members with qualifications in Aviation, Business and Tourism backgrounds. The board members (9) are also paid a modest stipend (\$560/mo.) by statute to help insure commitment, uniformity, and participation continuity and given a corporate surety bond conditioned on faithful service, also by statute. It has proven in the past to be a profound benefit to have at least one pilot on the board. With Reno-Stead Airport being the home of the Reno Air Races, we had a legacy of top pilots as Board Trustees who acted as ambassadors to the General Aviation community.

Be brave, look forward, think big and take action. If you do the agency you create and the professional airport executives that lead it to success will give you pride in the most impressive and wonderful way.

- ➔ **Thank you Mr. Chairman for the opportunity to share my opinions and recommendations with the Committee.**

From: mailinglist@capitol.hawaii.gov
Sent: Monday, March 13, 2017 4:24 PM
To: TRNtestimony
Cc: mendezj@hawaii.edu
Subject: *Submitted testimony for SB658 on Mar 15, 2017 10:00AM*

SB658

Submitted on: 3/13/2017

Testimony for TRN on Mar 15, 2017 10:00AM in Conference Room 423

Submitted By	Organization	Testifier Position	Present at Hearing
Javier Mendez-Alvarez	Individual	Oppose	No

Comments:

Please note that testimony submitted less than 24 hours prior to the hearing, improperly identified, or directed to the incorrect office, may not be posted online or distributed to the committee prior to the convening of the public hearing.

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LATE

SB658 SD2
RELATING TO AN AIRPORT CORPORATION
House Committee on Transportation

March 15, 2017

10:00 a.m.

Room 423

The Office of Hawaiian Affairs (OHA) **OPPOSES** SB658 SD2, which would establish the Hawai'i Airport Corporation (Corporation) to exercise consolidated jurisdiction over the State's airports and airport lands, and exempt the Corporation from critical laws protecting Native Hawaiian rights and interests in public and "ceded" lands.

OHA has significant concerns regarding language in this measure that would explicitly exempt the Corporation and Corporation-held lands from Hawai'i Revised Statutes (HRS) Chapter 171.

Under Article 11, section 1 of the Hawai'i State Constitution and HRS Chapter 171, the State holds in trust approximately 1.3 million acres of public lands, including the natural and cultural resources they contain, for the benefit of present and future generations. Much of these lands are "ceded" lands, most of which are also subject to the public land trust created by Article 12 of the Hawai'i State Constitution and the Admission Act section 5(f), which requires that a portion of revenues derived from public land trust lands be dedicated to OHA, for the purpose of bettering the conditions of Native Hawaiians. OHA notes that the trust status of these lands imposes on the State specific fiduciary obligations of due diligence and undivided loyalty, in making the trust corpus productive and maximizing its benefits for the trust's Native Hawaiian and public beneficiaries.

By exempting the proposed Corporation from Chapter 171, this bill would circumvent critical laws that protect Native Hawaiian rights related to "ceded" lands, other public lands, and the public land trust. For example, Chapter 171 contains requirements that legislative approval be obtained prior to the sale or gift of state lands (HRS §171-64.7), or to the exchange of public lands for private lands (HRS §171-50). OHA views these statutory protections as critical to maintaining the ceded lands corpus, as their enactment was a condition precedent to the settlement agreement in the OHA v. Housing and Community Development Corporation of Hawai'i lawsuit, brought in response to the State's actions to sell and otherwise alienate ceded lands. An exemption from these statutory requirements would therefore undermine the long-held understanding between OHA, Native Hawaiians, and the State, regarding the State's moral and legal obligation to maintain the ceded lands corpus. Chapter 171 also contains requirements for leases of public lands, including public auction requirements, limits on lease length and parcel use, and lessee qualifications, all of which are meant to benefit and protect the

interests of Native Hawaiians and the public. Exempting the Corporation from these requirements may invite potential violations of the public trust and public land trust, by foreclosing opportunities to maximize the financial and intangible benefits derived from the trust corpus, and fostering a sense of entitlement in lessees that can and has in the past led to the alienation of public lands. **Accordingly, the wholesale exemption of the Corporation and its lands from Chapter 171 may threaten a range of Native Hawaiian interests in our limited public land base.**

OHA has additional concerns over Section 2 of the measure, which describes the new Corporation as a “body politic and corporate,” a “public instrumentality,” and a “subdivision of the State.” The latter term resembles the term “political subdivisions within the State” in Article VIII of the state constitution describing local government, i.e., the counties. Since the counties are not necessarily subject to the same laws as state agencies, it is unclear whether key state laws would apply to the Corporation, including Act 178, Session Laws of Hawai‘i 2006, which imposes strict public land trust revenue accounting requirements on state departments and agencies that use or manage public lands.

Accordingly, OHA urges the Committee to **HOLD** SB658 SD2, or otherwise ensure that all laws establishing and protecting the rights of OHA and its beneficiaries be made explicitly applicable to the Corporation in its receipt, administration, and disposition of lands that fall under its control. Mahalo for the opportunity to testify on this measure.



LATE

TESTIMONY OF HAWAIIAN AIRLINES ON SB 658 SD2 Relating to an Airport Authority

DATE: Wednesday, March 15, 2017

TIME: 10:00 a.m.

PLACE: State Capitol, Room 423

Aloha Chair Aquino, Vice Chair Quinlan and Members of the Committee:

Hawaiian Airlines appreciates the opportunity to testify in support of the intent behind SB 658 SD2 relating to an Airport Corporation, but we respectfully request that your committee restore the language that was present in HD 1443, which was introduced earlier this session.

An Airport Corporation as envisioned in HB 1443 would allow the users of the airport system to direct the private funds we pay in user fees toward the enhancements of airport facilities in a timely and efficient manner. An Airport Corporation as envisioned in HB 1443 would remove the impediments that have delayed the completion of Honolulu's Airport modernization program for more than a decade, creating a vastly improved transportation experience for residents and visitors alike.

We greatly appreciate your approval of HB 1443 earlier in this session and ask that you reinstate that language into SB 658 SD2.

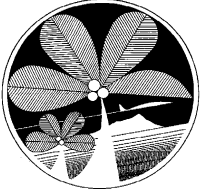
Sincerely,

Ann Botticelli

SVP Corporate Communications and Public Affairs

Hawaiian Airlines

AIRLINES COMMITTEE OF HAWAII



Honolulu International Airport
300 Rodgers Blvd., #62
Honolulu, Hawaii 96819-1832
Phone (808) 838-0011
Fax (808) 838-0231

LATE

March 15, 2017

Honorable Henry Aquino, Chair
Honorable Sean Quinlan, Vice Chair
House Committee on Transportation

**Re: SB 658 SD2 – RELATING TO AN AIRPORT CORPORATION – SUPPORT INTENT,
REQUEST AMENDMENTS**
Conference Room 423 – 10:00 AM

Aloha Chair Aquino, Vice Chair Quinlan and Members of the Committee:

The Airlines Committee of Hawaii* (ACH), which is made up of 20 signatory air carriers that underwrite the State Airport System, appreciates the opportunity to offer testimony supporting the intent of SB 658 SD2, which authorizes the establishment of the Hawaii Airport Corporation. However, we have serious concerns with the SD2 version of the bill and prefer the original draft of HB 1443.

While we support HB 1443, we would like to offer the following proposed amendment for the Committee's consideration:

A requirement that at least one member of the board have aviation experience in addition to business and management experience.

The establishment of a Hawaii Airport Corporation will address the many concerns about Hawaii's airports failing to provide a warm and welcoming experience for visitors by creating a means to efficiently and expediently execute much-needed projects at the airports. Experience at other U.S. airports show that airport authorities can develop and implement policies and procedures designed to deliver uniquely complex airport capital programs more effectively and in a more timely fashion, while retaining full public transparency and accountability.

The Hawaii Airport Corporation will be self-sustaining and not require any tax payer dollars; it is fully funded by user fees and underwritten by the airlines serving the State's airport system. The Hawaii Airport Corporation will benefit from consistent leadership that can deliver on a long term vision for the airports.

Thank you for the opportunity to submit testimony. We respectfully request that SB 658 SD2 be amended to reflect the language in HB 1443 with our proposed amendment.

Sincerely,

Blaine Miyasato
ACH Co-chair

Turner Maynor
ACH Co-chair

*ACH members are Air Canada, Air New Zealand, Alaska Airlines, All Nippon Airways/Air Japan, Aloha Air Cargo, American Airlines, China Airlines, Delta Air Lines, Federal Express, Fiji Airways, Hawaiian Airlines, Island Air, Japan Airlines, Korean Air, Philippine Airlines, Qantas Airways, United Airlines, United Parcel Service, Virgin America and WestJet.



HAWAI'I LODGING & TOURISM
ASSOCIATION

LATE

Testimony of

Mufi Hannemann
President & CEO
Hawai'i Lodging & Tourism Association

House Committee on Transportation

Senate Bill 658 SD2: Relating to an Airport Corporation

Chair Aquino, Vice Chair Quinlan, and members of the committee:

Thank you for the opportunity to testify. On behalf of the Hawai'i Lodging & Tourism Association, we support Senate Bill 658 SD2 which would establish a very necessary Hawai'i airport corporation. For HLTA, the state's largest private sector visitor organization, this is one of our major objectives. We supported it strongly last session when the subject was broached and our support remain steadfast this session.

We, however, have some major concerns that we would like to point out in regards to the measure's current SD2, which most notably requires the executive branch to appoint the entire corporation's board of directors, taking the legislature out of the equation, as well as deleting language that would allow the corporation exemption from chapter 103D (procurement). We would like to see a balance of power through the board selection process that would allow the legislative branch to be actively involved well as safeguard the ability for the corporation to execute necessary plans in a timely fashion. As an association we are in strong support of the establishment of an airport corporation, however, our preference remains with the original language as seen in HB1443.

Our airports serve as our window to the world, and the hospitality industry's continued success is very dependent on the quality provided by our airports; so it is critically important that we improve upon the service, infrastructure, and overall development of such a vital entity. With year-round governance, the corporation would be able to better accommodate our air travelers by providing a higher level of comfort and convenience as well as establish standards and goals in achieving a higher caliber of customer service. It would also provide better transparency and public accountability by engaging stakeholders and all interested parties in the decision-making process.

It is imperative that we keep our airports at the forefront of our state's priorities. Visitors to our islands are always impressed when they experience examples of our Aloha Spirit and the beauty of our Native Hawaiian culture - our airports can be one of the best venues to experience these memorable moments.

We understand that these sorely needed airport improvements will be paid by the airlines and concessionaires that utilize the airports coupled with the existing passenger facility fees already included in the airfares. In short, HLTA enthusiastically supports an independent airport corporation as the over-arching entity to oversee our airports' planning, management and marketing and development; all under one umbrella.

Therefore, we respectfully ask that this committee consider restoring language from HB1443 in its deliberations. Mahalo for the opportunity to testify.